



ENDING ILLEGAL CREDIT CARD PRACTICES

The Consumer Financial Protection Bureau (CFPB) announced a public enforcement action with orders requiring American Express to refund an estimated \$85 million to approximately 250,000 customers. At every stage of the consumer experience, from marketing to enrollment to payment to debt collection, several American Express bank programs violated consumer protection laws.

By the Numbers

- **\$85 million:** The estimated total refund to American Express consumers.
- **250,000:** The approximate number of consumers receiving a refund.
- **\$27.5 million:** The civil monetary penalty that American Express will be fined by the CFPB, the Federal Deposit Insurance Corporation (FDIC), the Board of Governors of the Federal Reserve System (Federal Reserve Board), and the Office of the Comptroller of the Currency.

Overview

The investigation of American Express Centurion Bank, a state-chartered industrial bank and subsidiary to the American Express Company, began in February 2011 with a routine exam by the FDIC and the Utah Department of Financial Institutions. The FDIC shared the case with the CFPB after the CFPB inherited jurisdiction over consumer financial laws in July 2011.

CFPB examiners later confirmed multiple violations across two other American Express subsidiaries: American Express Bank, FSB, a federal savings association; and American Express Travel Related Services Company, Inc., a bank holding company and parent company to American Savings Bank, FSB and American Express Centurion Bank. The investigations found that the violations occurred at various points in time between 2003 and spring 2012.

Through a cooperative effort, several federal agencies that have jurisdiction over the American Express entities got involved in the investigations and found wrongdoing. Those federal government agencies, in addition to the CFPB and FDIC, are the Office of the Comptroller of the Currency and the Federal Reserve Board. The agencies have either joined the CFPB in its Consent Orders against American Express or issued their own Consent Order. The State of Utah has also taken its own action.

Deceptive Marketing Practices

American Express Centurion Bank customers were sometimes misled to believe they would receive \$300 in addition to bonus points if they signed up for the “Blue Sky” credit card. But consumers who met the qualifications did not receive \$300. This is a violation of the Consumer Financial Protection Act which prohibits unfair, deceptive, or abusive acts or practices.

Age Discrimination

American Express Centurion Bank used a credit scoring system that treated card applicants differently on the basis of age. For eight months, the bank did not fully implement the system for applicants over the age of 35. This violated the Equal Credit Opportunity Act because it requires credit scoring systems that take age into account to be properly designed and implemented.

Unlawful Fees on Existing Accounts

American Express Centurion Bank and American Express Bank, FSB billed late fees on certain charge cards based on a 2.99 percent portion of the customer's delinquent balance in violation of the Truth in Lending Act, as amended by the Credit CARD Act.

Consumer Disputes

American Express Centurion Bank and American Express Bank, FSB failed to report certain consumer disputes to consumer reporting agencies. This is a violation of the Fair Credit Reporting Act.

Deceptive Debt Collection

All three of the American Express subsidiaries told certain consumers that settling old debt — debt that had been in collections or had already been charged off— would be reflected on their credit report and that payment could improve their credit score. But, in fact, the entities did not report such debt to the credit reporting agencies and the debt was so old that it may not have appeared on a credit report. The American Express subsidiaries also sent letters to consumers saying that after they paid off their old debt, the consumer's remaining debt would be waived or forgiven. But for customers who applied for a new American Express card, the company was not really forgiving or waiving the debt. American Express failed to prominently disclose that the consumer had to have paid the full balance before the bank would process any future credit or charge card application. These actions by the subsidiaries violate the Consumer Financial Protection Act which prohibits unfair, deceptive, or abusive acts or practices.

CFPB Enforcement Action

The Bureau has issued Consent Orders to the three American Express subsidiaries. To ensure that all affected consumers are repaid and that consumers are no longer subject to these misleading and unlawful deceptive acts and practices, American Express has agreed to:

- **End illegal practices:** American Express must stop deceiving consumers with Blue Sky credit card marketing or any other card marketing by falsely promising a rebate or points feature. American Express will not charge illegal late fees. It will not unlawfully discriminate based on age when it comes to credit decisions. It will properly report disputes to credit reporting agencies and will make sure that cardholders are told about their rights regarding credit disputes. And it will report consumer disputes when it is supposed to.
- **American Express will exercise effective oversight and control over its service providers:** The Board of Directors and senior management at American Express Centurion Bank and American Express Bank, FSB must review, revise, develop and implement a sound risk-based compliance management system.
- **Complete repayment plus interest to approximately 250,000 consumers:** American Express will pay an estimated \$85 million to approximately 250,000 consumers who were illegally charged, or who had money illegally collected or withheld. Specifically, consumers who responded to deceptive marketing and paid off old debt in full will be reimbursed. Consumers whose debt was not forgiven as promised will receive \$100 and a pre-approved offer for a new card with terms acceptable to the CFPB and FDIC. Any of these consumers who previously paid the waived or forgiven amount in order to get a new card will be refunded that amount plus interest. Blue Sky customers who were promised \$300 for signing up will get their \$300. Consumers who paid an illegal late fee will be reimbursed, with interest. American Express will also be required to certify that all qualified consumers who suffered unlawful age discrimination have an opportunity to reapply for a card.
- **Convenient repayment for consumers:** American Express customers can expect to receive their payouts no later than March 15, 2013. American Express will contact the current and former cardholders directly. If the consumers are still American Express customers, they will see a credit in their account. If they no longer

have a credit or charge card account or outstanding balance with American Express, they will receive a check in the mail.

- **Independent audit:** Compliance with the terms of the Consent Order will be assured through the work of an independent auditor.
- **\$27.5 million civil monetary penalty:** The three American Express subsidiaries will be fined \$14.1 million in total civil monetary penalties by the CFPB, which has jurisdiction over all three subsidiaries. American Express Centurion Bank will be fined \$3.9 million by the FDIC. American Express will be fined \$9 million by the Federal Reserve Board, which has jurisdiction over American Express Travel Related Services Company, Inc. and American Express Company, the parent company of all three American Express subsidiaries. And American Express Bank, FSB will be fined \$500,000 by the Office of the Comptroller of the Currency.